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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,939	12/29/2000	Bruce L. Gibbins	01005-0121 (41946-251368)	9231
7590 03/07/2006 Mary Anthony Merchant Ph D Trouman Sanders LLP Bank of America Plaza 600 Peachtree Street NE Suite 5200 Atlanta, GA 30308-2216			EXAMINER GHALI, ISIS A D	
			ART UNIT 1615	PAPER NUMBER
DATE MAILED: 03/07/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/752,939	<b>Applicant(s)</b> GIBBINS ET AL.	
	<b>Examiner</b> Isis Ghali	<b>Art Unit</b> 1615	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12/05/05.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4,6,8,12 and 21-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6, 8,12 and 21-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

The receipt is acknowledged of applicants' amendment filed 12/05/2005.

Claims 1-4, 6, 8, 12, 21-39 are included in the prosecution.

**The following new ground of rejection is necessitated by applicants' amendment:**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-4, 6, 8, 12, 21-39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The amendment to the claims has introduced new matter to the claimed subject matter that has not been described in the specification as originally filed. Nowhere in the specification applicants have disclosed: "oxygen is provided by the one time reaction" or "single reaction". Nowhere applicants have disclosed: "the catalyst release oxygen in the closed cells". Applicants disclose on

page 26, lines 24-27 that "A catalytic decomposition of hydrogen peroxide occurs resulting in liberation of oxygen gas which becomes entrapped as bubbles formed in situ". Therefore, the reaction forms oxygen that forms the bubbles in situ, and not released into the closed cells in the formed matrix.

**The following rejections were discussed in details in the previous office action, and are applicable if applicants remove the new matter:**

***Claim Rejections - 35 USC § 102***

3. Claims, 1, 3, 4, 6, 8, 9, 12, 34, 36-39 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,792,090 ('090).

US '090 discloses wound dressing that supply oxygen to the wound for optimal healing and minimization of infection because the wound causes diffusion limited access and limits the oxygen supply to the wound (abstract; col.2, lines 28-31). The dressing comprises hydrogel or polymeric foam comprising elements that react to generate oxygen that are hydrogen peroxide and catalyst such as magnesium dioxide or enzymes (col.6, lines 6-26). The catalyst is contained in the foam which absorbs hydrogen peroxide into the foam to produce oxygen (col.7, lines 48-55). The hydrogel or foam can be guar gum or polyacrylamide and further comprises collagen, i.e. non-gellable foam (col.4, lines 39-42; col.12, line 7).

***Claim Rejections - 35 USC § 103***

4. Claim 1-4, 6, 8, 12, 21-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ladin, US 5,792,090 ('090) and Gilchist et al., US 6,187,290 ('290).

The present claim 1 is directed to a product comprising matrix of polymer containing oxygen generated from reaction of hydrogen peroxide and a catalyst. The process of making the product do not impart patentability to the product as it does not result into a materially different product.

US '090 discloses wound dressing that supply oxygen to the wound for optimal healing and minimization of infection because the wound causes diffusion limited access and limits the oxygen supply to the wound (abstract; col.2, lines 28-31). The dressing comprises hydrogel or polymeric foam comprising elements that react to generate oxygen that are hydrogen peroxide and catalyst such as magnesium dioxide or enzymes (col.6, lines 6-26). The catalyst is contained in the foam which absorbs hydrogen peroxide into the foam to produce oxygen (col.7, lines 48-55). The hydrogel or foam can be guar gum or polyacrylamide and further comprises collagen, i.e. non-gellable foam (col.4, lines 39-42; col.12, line 7).

US '290 discloses a product suitable for wound dressing made of foam comprising foam product comprising mixture of polyacrylamide and guar gum (abstract; col.4, lines 12-20; col.6, lines 18-19). The foam comprises gas entrapped into small bubbles therein forming closed cell foam that form protective cover to the wound and may be used to deliver active agents selected from antibacterial agents, such as

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chlorhexidine and silver; growth factor; and protein (col.2, lines 26-32; col.3, lines 40-43; col.4, lines 41-50; col.5, lines 5-10). The foam composition further comprises glycerol and water that claimed by applicants' as plasticizer and hydration agents; and silicone that claimed by applicants' as water loss control agent (col.2, line 34; col.7, line 11).

Thus, it would have been obvious to one having ordinary skill in the art at the time of the invention to provide foam comprising oxygen generated from the reaction of hydrogen peroxide and a catalyst as described by US '090 and add active agents to the foam as disclosed by US '290, motivated by the teaching of US '290 that that foam forms protective cover to the wound and meanwhile delivers active agents, with reasonable expectation of having foam wound dressing comprising oxygen and active agents that are beneficial to the wound that provides optimal wound healing with minimal risk of infection.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isis Ghali whose telephone number is (571) 272-0595. The examiner can normally be reached on Monday-Thursday, 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Isis Ghali  
Examiner  
Art Unit 1615

THURMAN K. PAGE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600